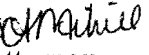



MEMORANDUM

TO: Public Safety Committee

FROM: Amanda Mihill, Legislative Attorney 
Michael Faden, Senior Legislative Attorney
Robert Drummer, Senior Legislative Attorney 

SUBJECT: **Worksession 3:** Expedited Bill 25-11, Offenses – Curfew – Established

Expedited Bill 25-11, Offenses – Curfew – Established, sponsored by the Council President at the request of the County Executive, was introduced on July 12, 2011. A public hearing was held on July 26, at which speakers articulated strong positions for and against this Bill. See select testimony and correspondence on ©23-33. The Public Safety Committee held worksessions on Bill 25-11 on September 15 and November 3. **Council staff packets for those worksessions provide a summary of background issues and information. Councilmembers should bring their packets from those worksessions to this meeting.** Additional background information attached to this memorandum include information provided to this Committee for its October 6 update on implementation of Police Department's 3rd District staffing (©20) and information provided to the Public Safety and Health and Human Services Committees for their October 13 session on positive youth programming in Montgomery County (©13).

Bill 25-11 would establish a curfew for minors, prohibit certain activities during the curfew, allow certain defenses, and specify enforcement procedures and penalties. According to the County Executive's transmittal memorandum, Bill 25-11 is intended to address issues relating to increased gang activity, violence, and crime involving minors in the County. The Executive noted that Bill 25-11 is similar to current laws in Prince George's County and the District of Columbia.

Summary of Introduced Bill

As introduced, Bill 25-11 would establish a curfew for minors between 11 p.m. and 5 a.m. on Sunday through Thursday and from 12:01 a.m. until 5 a.m. on Saturday and Sunday. During the curfew hours, a minor must not **remain** in any County public place or establishment. Executive staff confirmed that a minor could be cited for a curfew violation only after a police officer has told the minor to move along and the minor refused. "Public place" is defined as "a place to which the public, or a substantial group of the public, has access". "Establishment" is defined as "any

privately-owned place of business to which the public is invited, including any place of amusement or entertainment". Bill 25-11 would also prohibit a minor's parent from knowingly (or by insufficient control) permitting a minor to remain in any public place or establishment during curfew hours and prohibit the owner or operator of an establishment from knowingly allowing a minor to remain at an establishment during curfew hours.

Bill 25-11 lists many situations in which a minor may lawfully remain during curfew hours. These exceptions are if the minor is:

- 1) accompanied by the minor's parent;
- 2) accompanied by an adult authorized by the minor's parent to accompany the minor for a specified period of time and purpose in a specified area;
- 3) on an errand at the direction of the minor's parent, without any detour or stop, until 12:30 a.m.;
- 4) in a motor vehicle, train, or bus in interstate travel through the County or starting or ending in the County;
- 5) engaged in employment, or going to, or returning home from, employment, without any detour or stop. The minor must carry a valid work permit issued under State law;
- 6) responding to an emergency;
- 7) on the property where the minor resides;
- 8) on the sidewalk that abuts the minor's residence, or that abuts the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;
- 9) attending an official school, religious, or other recreational activity sponsored by the County, a civic organization, or a similar entity that takes responsibility for the minor, or going to, or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the County, a civic organization, or a similar entity that takes responsibility for the minor; or
- 10) exercising First Amendment rights protected by the U. S. Constitution.

Additionally, an owner or operator would not be in violation of the law if the owner or operator notified the Police Department that a minor was in the establishment during curfew hours and refused to leave.

Bill 25-11 also specifies enforcement procedures and penalties. Under the bill, after asking an apparent offender's age, if a police officer finds that a minor is committing a curfew violation, the police officer must take the minor to the nearest police facility and detain the minor until the minor can be released into a parent's custody. If no parent is available, the police can take the minor to the minor's residence or place the minor in custody of the Department of Health and Human Services (DHHS), who may release the minor at the end of curfew hours.

Violation of Bill 25-11 would be a Class A violation for a parent or owner/operator of an establishment. A civil Class A violation would carry a \$500 fine for a first offense and a \$750 fine for a repeat offense. A criminal Class A violation would carry a maximum fine of \$1,000 and a 6-month maximum jail term. Bill 25-11 as introduced would also allow the Court to require a

parent who violates the law to complete parenting classes. A minor who violates the curfew may be required to perform up to 25 hours of community service.

Executive Amendments

On August 31, the County Executive submitted proposed amendments to Bill 25-11 (see redraft on ©1-8). *Council staff suggests that this redraft be treated substantively as the Bill before the Committee, subject to further technical polishing.* The following Executive amendments are of particular note:

Enforcement procedures/penalties. The penalties for violating Bill 25-11 as introduced are detailed on page 2. The Executive's proposed amendments would make a violation of Bill 25-11 a Class B civil citation for any minor, parent, or owner/operator (©7, lines 156-157; ©8, lines 170-174). The maximum fine for a Class B violation is \$100 for an initial offense and \$150 for a repeat offense. In his amendments memo, the Executive noted that the State's Attorney believes that if arrest authority is required in a specific situation, a police officer can use existing authority in state law requiring individuals to obey lawful police orders. A representative of the State's Attorney is expected to attend this worksession.

In addition, the Executive's amendments would delete the authority for a Court to require a parent to complete parenting classes and order a minor to perform community service (©8, lines 175-180). The County Attorney's office concluded that the County does not have the authority to empower courts to impose these requirements.

Finally, the Executive's amendments would delete language authorizing the police to take an offending minor to a police facility and allowing the police to release the minor into the custody of DHHS (©7-8, lines 151-168).

Exceptions. The Executive recommended several amendments to the exceptions to the curfew. As we noted on page 2, the bill includes a list of situations where a minor would not be found in violation of the curfew. The State's Attorney recommended that the bill be amended to clarify that these are affirmative defenses; Council staff is not sure that this change in terminology makes any legal difference, but it is more confusing to the non-lawyer. Therefore, Council staff suggests language changes for readability (see ©5, lines 100-109; ©7, lines 137-139). The Executive also recommended that this list of exceptions include a minor who is attending or returning home from "an event at a place of public entertainment" (©6-7, lines 134-136). The Executive also recommended that the exception related to employment be amended to not require the minor to carry a work permit (©6, lines 112-114).

Other amendments. The Executive's proposed amendments would also:

- alter the findings and purpose clauses to reflect the purpose of reducing juvenile violence, gang activity, and crime (and removing language indicating there has been an increase in these activities) and preventing disturbances of the public peace (©2, lines 4, 21-22);
- amend the definition of "emergency" (©3, lines 39-41);

- delete the phrase “insufficient control” from the prohibitions related to a parent, therefore narrowing the circumstances under which a parent could be found in violation of Bill 25-11 (©4, lines 79-80); and
- delete the definition of knowingly because it is a legal term that is defined in case law (©5, lines 83-89, 92-98).

Topics for Committee Discussion

The primary question for the Committee’s consideration is whether a curfew is warranted and would improve law enforcement and the quality of life in the County. In making this decision, Committee members can evaluate the current crime and order situations in County urban areas, the data provided by the Executive or elsewhere, effectiveness of curfews in other jurisdictions, and any viable alternatives (for example, Bill 35-11 or increased funds for positive youth development programs), along with fundamental policy questions about the role of government in limiting personal conduct.

After discussing these central issues, if the Committee is inclined to recommend enactment of some version of Bill 25-11, Committee members should review the following specific issues¹:

Enforcement How do the Police intend to enforce the curfew? If enacted, will the curfew be enforced uniformly against all minors in public places during curfew hours or will the Police selectively enforce the curfew against only certain minors. The Executive’s Frequently Asked Questions states that Police would confront “teens called to their attention due to suspicious, menacing, potentially violent, or violent behavior”. The FAQ further states that Police would respond to groups of young people that appear threatening or where trouble has started and that Police would not stop people only because of their potential juvenile status. Would this type of selective enforcement open the County to charges of arbitrary and/or discriminatory enforcement that rendered certain loitering laws unconstitutional?

Executive authority Councilmember Floreen indicated that she expects to offer an amendment to convert the Bill’s youth curfew authority to a conditional provision that only takes effect after the County Executive has imposed a youth curfew, as needed to maintain public order, by Executive order published in the County Register, after receiving the advice of the State’s Attorney, County Attorney, and Police Chief, for:

- the entire County or one or more designated areas of the County; and
- a specified time period.

Her amendment would also sunset the curfew law after 2 years (as of December 31, 2013). This would assure a Council review of the need for and effectiveness of any curfew. Councilmember Floreen’s amendment is on ©12.

Locations Should any curfew be limited to urban areas or Central Business Districts of the County? While a case could be made for a curfew in, say, Silver Spring, the same factual case

¹ Council staff also recommends 2 technical amendments to Bill 25-11: (1) language changes to the affirmative defense section for readability (©5, lines 100-102 and ©7, lines 137-139); and (2) including examples of what First Amendment rights are a defense to a potential curfew violation (©6, lines 131-132).

almost certainly cannot be made for Poolesville or Damascus, and possibly not even Bethesda. Executive staff argue that misbehaving juveniles will move to uncovered areas if a curfew is geographically limited. That is hardly clear on its face; in any case, if the curfew is geographically limited and juvenile unrest spreads as Executive staff predict, the curfew's reach could easily be extended as needed. The D.C. Circuit Court opinion in *Hutchins* concluded that limiting the D.C. curfew to high-crime areas, as its opponents argued, would open the District to "charges of racial discrimination". Council staff is not sure that would be the case here – at least any more than the Executive's stated enforcement practices would open the County to such charges.

Age limit Bill 25-11 would prohibit a minor – defined as anyone under 18, except a judicially emancipated minor or a married minor – from remaining in a public place or establishment during the curfew hours. Tony Hausner and Safe Silver Spring urged the Council to lower the age limit to minors under 17 (©23). The curfews in D.C. and Prince George's County apply to minors under 17.

Hours Bill 25-11 would set the curfew hours at 11 p.m. to 5 a.m. on Sunday through Thursday and 12:01 a.m. to 5 a.m. on Saturday (e.g., Friday night) and Sunday (e.g., Saturday night). The curfew hours in D. C. are 11 p.m. to 6 a.m. Sunday through Thursday and 12:01 a.m. – 6 a.m. Saturday and Sunday. During July and August, the curfew hours are 12:01 a.m. to 6 a.m. every day. The curfew hours in Prince George's County are 10 p.m. to 5 a.m. Sunday through Thursday and 11:59 p.m. to 5 a.m. Friday and Saturday. The Council received correspondence from constituents urging that the curfew hours be based not on day of the week, but on whether the following day is a school day. The Silver Spring Chamber of Commerce, while supporting the curfew, urged the Council to set a later curfew hour during the summer months, similar to the D.C. law (©25).

Exceptions Bill 25-11 contains many exceptions (see pages 2 and 3), most of which are derived from curfew laws elsewhere. The First Amendment rights exception, while probably constitutionally required, is quite broad; for example, it could be read to apply to a single teenager because he or she is wearing a shirt saying "No curfews!" or another political or social opinion.

Questions also have been raised about whether other exceptions are necessary. For instance, the Council was asked whether the exceptions in the Executive's draft allow minors to take early morning fishing trips without a parent or take a camping trip with a group of friends who are all under the age of 18 (©26).

In addition, Jane Redicker, from the Greater Silver Spring Chamber of Commerce urged the Council to add an exception for owner/operators of establishments such that they could not be cited for employing minors after curfew hours. As proposed, Bill 25-11 prohibits an owner or operator of an establishment from knowingly allowing a minor to remain at an establishment in the County during curfew hours. There is an exception in the bill for minors who are engaged in employment, or going to or returning home from employment, without any detour or stop, but there is not an parallel exception for the employer. If the Committee supports this recommendation, Council staff has drafted the following language to be inserted at ©7, lines 137-141:

- (2) It is not a violation of subsection (c)(3) if the owner or operator of an establishment:
- (A) employs a minor during curfew hours; or
- (B) promptly notified the Police Department that a minor was present in the establishment during curfew hours and refused to leave.

Teenage drivers and passengers Action Committee for Transit (ACT) opposed Bill 25-11, arguing that the curfew would be enforced against minors on foot or in public transit, but not in cars (©28). ACT may be referring to the exception in Bill 25-11 for a minor “in a motor vehicle, train, or bus in interstate travel through the County or starting or ending in the County”. An interstate travel exception may be constitutionally required; Council staff would have to research that further. In any case, state law prohibits provisional drivers license holders under 18 from driving between midnight to 5 a.m., with certain exceptions.²

Sunset In its initial letter expressing concerns about Bill 25-11, the Greater Bethesda-Chevy Chase Chamber of Commerce urged the Council to adopt a one year sunset for the curfew so that its impact and need can be reviewed at a time certain (©29). Although the Chamber now supports Bill 25-11, a 1- or 2-year sunset may be an appropriate way to assure that the curfew is having the intended effect. As already mentioned, Councilmember Floreen’s “Executive authority” amendment includes a 2-year sunset provision.

This packet contains:

	<u>Circle #</u>
Revised Bill with Executive amendments	1
Executive revision memorandum	9
Councilmember Floreen amendment	12
Positive youth development information	13
3 rd District Staffing update	20
Select testimony and correspondence	
Safe Silver Spring	23
Greater Silver Spring Chamber of Commerce	25
Jerome Oden	26
Action Committee for Transit	28
Greater Bethesda-Chevy Chase Chamber of Commerce	29
Upcounty Citizens Advisory Board	30
Montgomery County Civic Federation	32

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² See Md. Code, Transportation Article, §16-113(d).

Expedited Bill No. 25-11
Concerning: Offenses - Curfew -
Established
Revised: 11/28/2011 Draft No. 3
Introduced: July 12, 2011
Expires: January 12, 2013
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) establish a curfew for minors;
- (2) make certain findings;
- (3) prohibit certain activities during the curfew;
- (4) provide for certain defenses;
- (5) establish enforcement procedures and penalties; and
- (6) generally amend County law relating to offenses and curfews.

By adding

Montgomery County Code
Chapter 32, Offenses – Victim Advocate
Section 32-23A

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec 1. Sections 32-23A is added as follows:**

2 **32-23A. Curfew.**

3 **(a) Findings and Purpose.**

4 (1) [[There has been an increase in]] A curfew for minors will help
5 reduce juvenile violence, juvenile gang activity, and crime by
6 minors in the County.

7 (2) Minors are particularly susceptible, because of their lack of
8 maturity and experience, to participate in unlawful and gang-
9 related activities and to be the victims of crime.

10 (3) The County [[is obligated to]] should provide for:

11 (A) the protection of minors from each other and from other
12 persons;

13 (B) the enforcement of parental control over, and
14 responsibility for, children;

15 (C) the protection of the general public; and

16 (D) the reduction of the incidence of juvenile criminal
17 activities.

18 (4) A curfew for minors is in the interest of the public health,
19 safety, and general welfare and will help to attain these
20 objectives and to diminish the impact of unwanted conduct on
21 County residents, including the prevention of disturbances to
22 the public peace.

23 (5) A curfew law will protect the welfare of minors by:

24 (A) reducing the likelihood that minors will be the victims of
25 criminal acts during the curfew hours;

26 (B) reducing the likelihood that minors will become involved
27 in criminal acts or exposed to trafficking in controlled

substances during the curfew hours; and

(C) aiding parents in carrying out their responsibility to exercise reasonable supervision of minors entrusted to their care.

(b) Definitions.

In this Section, the following terms have the meanings indicated:

Curfew hours means from 11 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday, until 5 a.m. the following day, and from 12:01 a.m. until 5 a.m. on any Saturday or Sunday.

Drug trafficking means the act of engaging in any prohibited activity related to controlled dangerous substances as defined in State law.

Emergency means [[an unforeseen combination of circumstances or the resulting state that calls for immediate action. *Emergency* includes]] a fire, natural disaster, automobile accident, or any situation that requires immediate action to prevent serious bodily injury or loss of life.

Establishment means any privately-owned place of business to which the public is invited, including any place of amusement or entertainment.

Minor means any person under 18 years old, but does not include a judicially emancipated minor or a married minor.

Operator means any individual, firm, association, partnership, or corporation that operates, manages, or conducts an establishment.

Operator includes the members or partners of an association or partnership and the officers of a corporation.

Parent means:

(1) natural parent;

- (2) adoptive parent;
- (3) step-parent;
- (4) any person who has legal custody or is the guardian of a minor by court order or marriage;
- (5) any person who is at least 21 years old who is authorized by a natural parent, adoptive parent, step-parent, or custodial parent of a child to act as a caretaker for the child; or
- (6) a public or private agency with whom a minor has been placed by a court.

Public place means any place to which the public, or a substantial group of the public, has access. Public place includes any street, highway, and common area of a school, hospital, apartment house, office building, transport facility, or shop.

Remain means to linger, stay, or fail to leave a public place or establishment when requested to do so by a police officer or the owner, operator, or other person in control of the public place or establishment.

Serious bodily injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(c) **Prohibitions.**

- (1) **Minor.** A minor must not remain in any public place or establishment in the County during curfew hours.
- (2) **Parent.** A parent of a minor must not knowingly [[permit, or by insufficient control]] allow, the minor to remain in any public place or any establishment in the County during curfew

hours. [[The term “knowingly” includes knowledge that a parent should reasonably be expected to have concerning the location of a minor in that parent’s legal custody. This requirement is intended to hold a neglectful or careless parent to a reasonable community standard of parental responsibility through an objective test. It is, therefore, no defense that a parent did not know of the activities, conduct, or location of the minor.]]

(3) **Owner or Operator.** The owner or operator of an establishment must not knowingly allow a minor to remain at an establishment in the County during curfew hours. [[The term “knowingly” includes knowledge that an owner or operator should reasonably be expected to have concerning the patrons of the establishment. The standard for “knowingly” must be whether a reasonable person in the position of the owner or operator should have known that the patron was a minor committing a curfew violation.]]

(d) **[[Affirmative]] Defenses.**

(1) It is [[not]] [[an affirmative defense to]] not a violation of this Section if a minor shows that during curfew hours the minor was:

(A) accompanied by the minor’s parent;

(B) accompanied by an adult authorized by the minor’s parent to accompany the minor for a specified period of time and purpose in a specified area;

(C) on an errand at the direction of the minor’s parent, without any detour or stop, until 12:30 a.m.;

- (D) in a motor vehicle, train, or bus in interstate travel through the County or starting or ending in the County;
- (E) engaged in employment, or going to, or returning home from, employment, without any detour or stop. [[The minor must carry a valid work permit issued under State law]];
- (F) responding to an emergency;
- (G) on the property where the minor resides;
- (H) on the sidewalk that abuts the minor's residence, or that abuts the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;
- (I) attending or returning home from, without any detour, an official school, religious, or [[other]] recreational activity sponsored by the County, a civic organization, or a similar entity that takes responsibility for the minor at the event [[, or going to, or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the County, a civic organization, or a similar entity that takes responsibility for the minor; or]]
- (J) exercising First Amendment rights protected by the United States Constitution, including free exercise of religion, freedom of speech, and the right of assembly [[.] or;
- (K) attending or returning home from, without any detour, an event at a place of public entertainment, including a

movie, concert, play, or sporting event.

(2) It is [[not]] [[an affirmative defense to]] not a violation of subsection (c)(3) if the owner or operator of an establishment shows that the owner or operator promptly notified the Police Department that a minor was present in the establishment during curfew hours and refused to leave.

(e) **Enforcement procedures.**

(1) Before taking any enforcement action under this Section, a police officer must ask an apparent minor's age and reason for being in the public place or establishment. The officer must not issue a citation [[or make an arrest]] under this Section unless the officer reasonably believes that:

(A) an offense has occurred; and

(B) based on any response and other circumstances, no condition in subsection (d) applies.

(2) If a police officer finds that a minor is committing a curfew offense, the police officer [[must take the minor to the nearest available Police facility, substation, or other area designated by the Police Department, and detain the minor until the minor can be released to the custody of the minor's parent or an adult acting in loco parentis]] may issue a civil citation and order the minor to go home promptly.

[[3) The minor's parent or an adult acting in loco parentis with respect to the minor must be called to the Police facility, substation or other designated area to take custody of the minor. A minor who is released to a person acting in loco parentis with respect to the minor must not be taken into custody for violation

of this Section while returning home with the person acting in loco parentis. If no person claims responsibility for the minor, the police may take the minor to the minor's residence or place the minor in the custody of the Department of Health and Human Services, who may release the minor at 5 a.m. the next morning.]]

(f) **Penalties.**

(1) Any minor, parent, or any owner or operator of an establishment who violates this Section has committed a separate offense for each day, or part of a day, during which the violation is committed, continued, or permitted. Each offense is a Class [[A]] B violation.

[(2) The Court may also require one or more parent of a minor, after each conviction for violating this Section to complete parenting classes.

(3) A minor found to have violated this Section by the Juvenile Court may be ordered to perform up to 25 hours of community service for each violation.]]

Sec 2. Expedited Effective Date.

The Council declares that this Act is necessary for the immediate protection of the public interest. This Act takes effect on the date when it becomes law.

Approved:

Valerie Ervin, President, County Council

Date




OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

August 31, 2011

TO: Valerie Ervin
Council President

FROM: Isiah Leggett 
County Executive

SUBJECT: Recommended amendments to Bill 25-11, Offenses – Curfew – Established

I want to thank the Council for introducing Bill 25-11, Offenses – Curfew – Established on my behalf on July 12 and promptly holding a public hearing on the bill on July 26. Based on testimony provided at the public hearing and feedback I have received from the State's Attorney and other County residents, I would like to recommend a number of amendments to clarify the intent of the bill and the manner in which it would be implemented. I am attaching an amended version of the bill that reflects all of my recommended amendments. Each of the amendments is discussed in more detail below.

Legislative Intent

I recommend that language be added to clarify that the intent of the bill is to reduce juvenile violence, juvenile gang activity, and juvenile crime in the County and prevent disturbances of the public peace, in addition to protecting minors from each other and other persons and enforcing parental responsibility for children (see lines 4 and 21-22).

Civil Citation

The bill currently specifies that a curfew violation is a Class A violation but does not specify whether the violation is criminal or civil. This is similar to other existing County Code provisions relating to certain types of offenses, which can be enforced either criminally or civilly. However, based on advice from the State's Attorney, I recommend that the bill be amended to make a curfew violation a Class B civil offense that is punishable by a maximum fine of \$100 for a first offense and \$150 for a second offense (see lines 138-170). If arrest authority is needed in a situation involving a curfew violation, the State's Attorney believes that a police officer could use existing authority granted under §10-201(c)(3) of the Criminal Law Article to arrest an individual who disobeys an order made by a police officer to prevent a disturbance of the public peace.

Penalties

I recommend that the bill be amended to delete language that allows a court to require a parent of a minor who violates the curfew law to complete parenting classes and to order a minor to perform up to 25 hours of community services (see lines 171-176). According to the County Attorney's office, the County does not have authority under State law to authorize courts to impose these types of requirements. However, courts already have authority under State law to impose them in some circumstances (e.g., as conditions of probation before judgment).

Emergency

Under the bill, a minor may not be cited for a curfew violation if the minor is responding to an emergency. I recommend that the definition of "emergency" be clarified by deleting language that could be construed to make the definition internally inconsistent (see lines 39-41).

Parental Responsibility

The bill prohibits a parent from "knowingly" or "by insufficient control" allowing a minor to remain in any public place or establishment during curfew hours. Based on advice from the State's Attorney, I recommend deleting the reference to "insufficient control" because it is too vague (see lines 79-80).

Definition of "Knowingly"

Based on advice from the State's Attorney, I recommend deleting the definition of "knowingly" from the bill because this is a legal term of art that is defined in case law and does not need to be defined in the County Code (see lines 83-89 and lines 92-98).

Affirmative Defenses

The bill includes a broad list of circumstances under which a minor may be in a public place or establishment during curfew hours, including situations when a minor is:

- (1) accompanied by a parent;
- (2) accompanied by an adult authorized by the minor's parent to accompany the minor;

Valerie Ervin, Council President
August 31, 2011
Page 3

(3) on an errand at the direction of the minor's parent without any detour or stop, until 12:30 a.m.;

(4) in a motor vehicle, train, or bus in interstate travel through the County or starting or ending in the County;

(5) engaging in employment, or going to, or returning home from employment, without any detour or stop (while carrying a valid work permit issued under State law);

(6) responding to an emergency;

(7) on the property where the minor resides;

(8) on a sidewalk that abuts the minor's residence or the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;

(9) going to, attending, or returning home from an official school, religious, or recreational activity sponsored by the County, a civic organization, or a similar entity that takes responsibility for the minor at the event; or

(10) exercising First Amendment rights protected by the United States Constitution.

Based on advice from the State's Attorney, I recommend that the bill be amended to clarify that all of the circumstances in this list constitute affirmative defenses to a curfew violation (see lines 100 and 134). I also recommend that this list be expanded to include a minor who is attending or returning home from, without any detour, an event at a place of public entertainment, including a movie, concert, play, or sporting event (see lines 131-133). Finally, I recommend that the requirement to carry a valid work permit referenced in item (5) above be deleted as unnecessarily restrictive because possession of a work permit is only one way for a police officer to confirm that a minor is involved in a work related activity (see lines 111-113).

Thank you for your consideration of these recommended amendments.

c: Tom Manger, Police Chief
John McCarthy, State's Attorney
Marc Hansen, County Attorney
Kathleen Boucher, ACAO

AMENDMENT

To Bill 25-11

BY COUNCILMEMBER FLOREEN

PURPOSE: To authorize the County Executive to impose a youth curfew as necessary to maintain public order, and to sunset that authority in 2 years.

On page 4 of the Executive redraft, after line 75, insert subsection (c) and reletter later subsections:

(c) **Executive Order.** To impose a curfew under this Section, the County Executive must:

- (1) find, after receiving the advice of the Police Chief, County Attorney, and State's Attorney, that imposing a youth curfew in all or part of the County is necessary to maintain public order in the affected area;
- (2) issue an Executive Order, which must specify:
 - (A) each area of the County where the curfew will take effect, if the curfew does not apply in the entire County; and
 - (B) the time period during which the curfew remains in effect unless cancelled or modified by a later Executive Order; and
- (3) notify the Council President of the issuance of the Order, post the Order on the County website, and publish the Order in the next issue of the County Register.

Any Executive Order issued under this subsection takes effect when the Order is posted on the County website, unless the Order specifies a later date.

On page 8 of the Executive redraft, after line 179, insert new Section 3:

Sec. 3. Sunset. County Code Section 32-23A, inserted by Section 1 of this Act, expires on December 31, 2013.



Positive Youth Development MCPD Requested Data

In a communication dated 9/14/11 from Legislative Assistant Vivian Yao, MCPD was asked to provide:

"Please provide youth crime statistics as measured by incident report (consistent with the parameters used to determine youth crime in the August 2009 CountyStat presentation) for calendar years 2006-2010, including the following: (1) total youth crime numbers, (2) youth crime numbers broken out by incident start time, and (3) youth crime numbers broken by incident start time and hot spot location. Please indicate, if available, the number of youth crimes which are attributable to gang activity or informal group activity (e.g., flash mobs, etc.)"

Using CountyStat's criteria from the August 2009 study and the same Records staff to extract the data, CJIS incident data was pulled for:

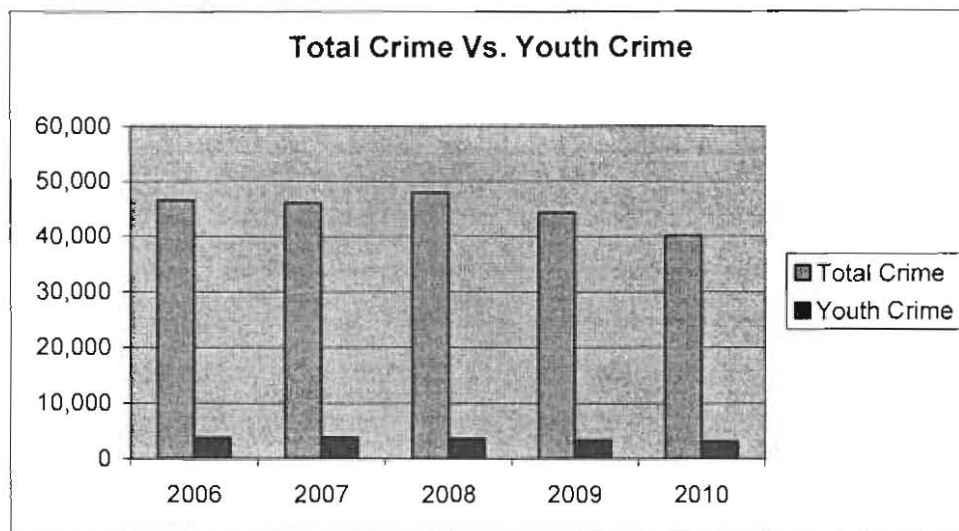
- "Youth crime" is defined as an incident where any defendant or suspect was under 22 years of age
- Reported time values shown are incident start times only (for crimes where the exact time is known, such as robbery or assault, this is useful, but it is not for any crime typically having a lengthy time spans, such as burglary or vandalism).
- Identified youth crime hot spots as locations with greater than 250 youth crimes per square mile and targeted a half mile around the epicenter.

Requested: 1) total youth crime numbers

Total Crime vs. Youth Crime

For the 5-year period of 2006 through 2010, overall crime trended down, whereas youth crime remained steady at approximately 8% of the total crime.

	2006	2007	2008	2009	2010
Total Crime	46,481	46,005	47,958	44,238	40,112
Youth Crime	3,703	3,844	3,582	3,345	3,104
% Youth Crime	8.0%	8.4%	7.5%	7.6%	7.7%



Requested: 2) youth crime numbers broken out by incident start time

Time of Day

Total youth crime broken down to 2-hour blocks as used by CountyStat in 2009 show the largest percentage of youth crimes to have occurred/have a start time of 2:00 PM to 5:59 PM for each year 2006 through 2010.

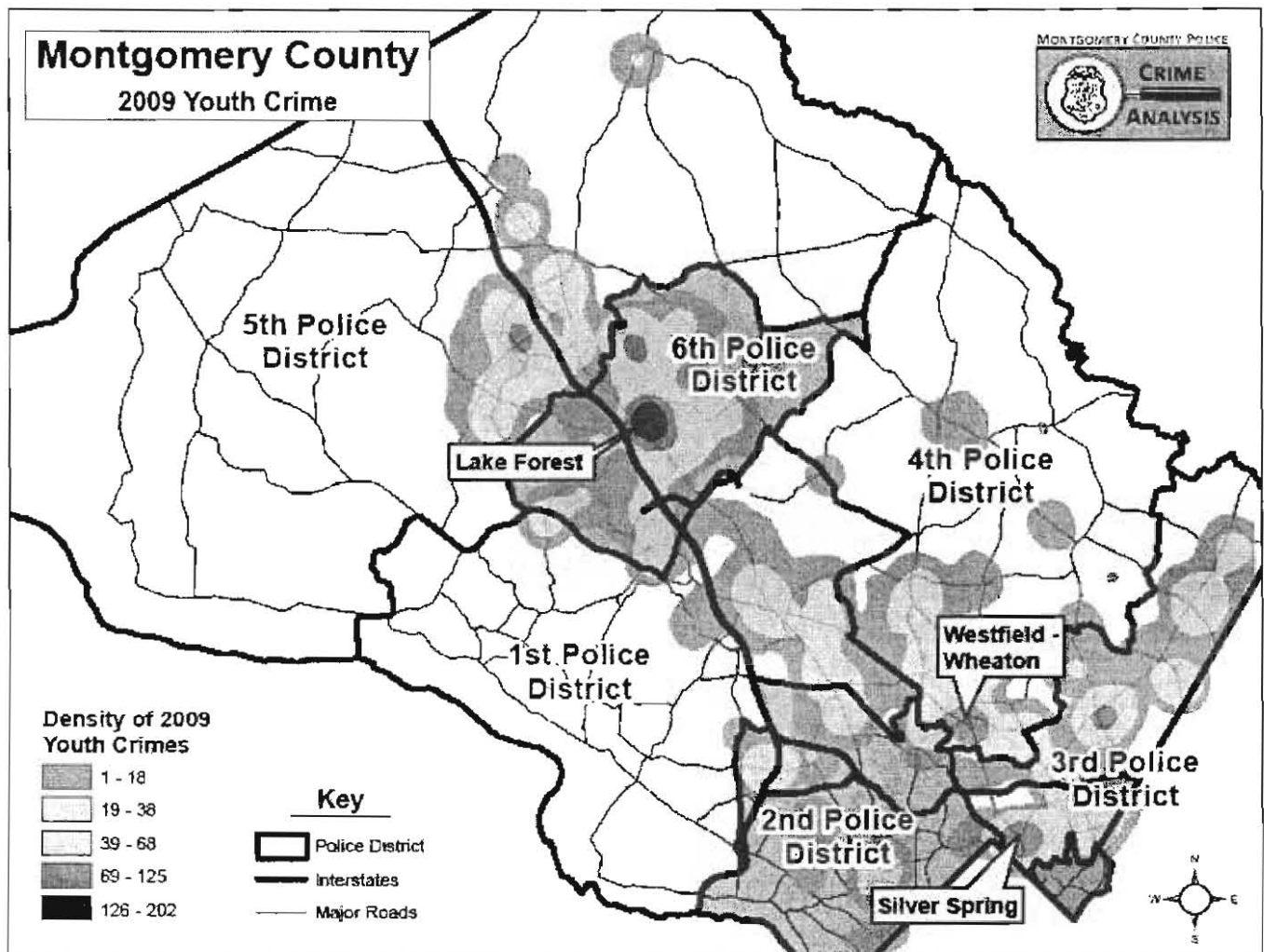
	2006		2007		2008		2009		2010	
	Total	% of Day	Total	% of Day	Total	% of Day	Total	% of Day	Total	% of Day
Midnight - 1:59 AM	280	7.6%	277	7.2%	267	7.5%	254	7.6%	227	7.3%
2:00 - 3:59 AM	87	2.3%	67	1.7%	84	2.3%	63	1.9%	75	2.4%
4:00 - 5:59 AM	35	0.9%	31	0.8%	26	0.7%	29	0.9%	32	1.0%
6:00 - 7:59 AM	137	3.7%	153	4.0%	103	2.9%	116	3.5%	84	2.7%
8:00 - 9:59 AM	254	6.9%	235	6.1%	215	6.0%	181	5.4%	182	5.9%
10:00 - 11:59 AM	360	9.7%	357	9.3%	343	9.6%	308	9.2%	313	10.1%
12:00 - 1:59 PM	416	11.2%	423	11.0%	370	10.3%	343	10.3%	322	10.4%
2:00 - 3:59 PM	555	15.0%	571	14.9%	549	15.3%	528	15.8%	494	15.9%
4:00 - 5:59 PM	474	12.8%	552	14.4%	500	14.0%	464	13.9%	401	12.9%
6:00 - 7:59 PM	434	11.7%	468	12.2%	450	12.6%	410	12.3%	357	11.5%
8:00 - 9:59 PM	362	9.8%	406	10.6%	379	10.6%	354	10.6%	337	10.9%
10:00 - 11:59 PM	309	8.3%	304	7.9%	296	8.3%	295	8.8%	280	9.0%
Total Youth Crime	3,703		3,844		3,582		3,345		3,104	

Requested: 3) youth crime numbers broken by incident start time and hot spot location

Hot Spots

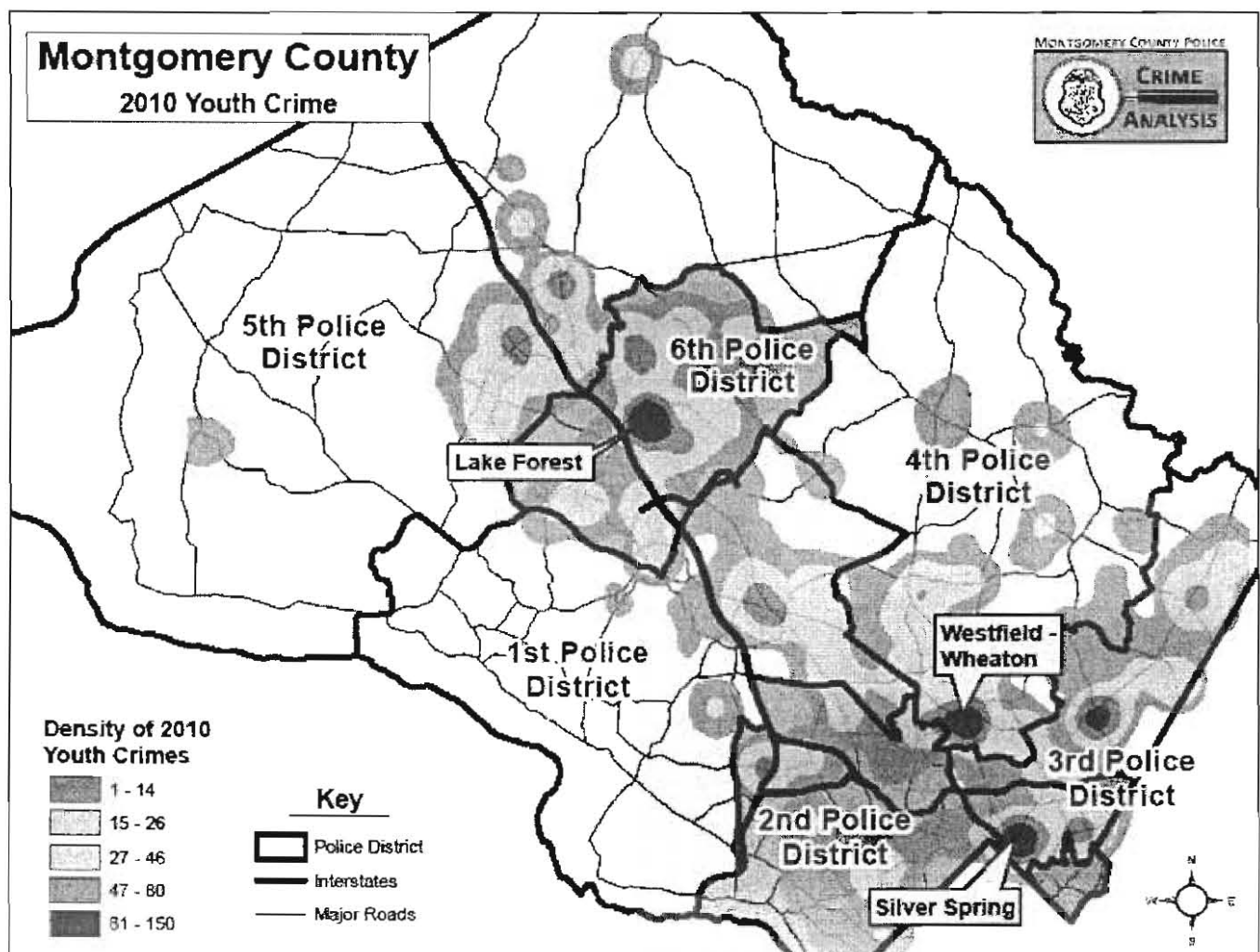
Incident data for calendar year 2009 was plotted and the areas of higher concentration remained consistent with CountyStat's previous findings for FY08 and FY09. Using the pre-established range of a half-mile radius, incidents within the different hot spot zones had differing peak times; the Lakeforest area remained busiest in the 2:00 PM to 5:59 PM time frame, but Westfield-Wheaton was 4:00 PM to 7:50 PM, and Silver Spring even later from 8:00 PM to 11:59 PM. In aggregate, the total youth crime within the three hot spot zones was most active from 4:00 PM to 7:59 PM.

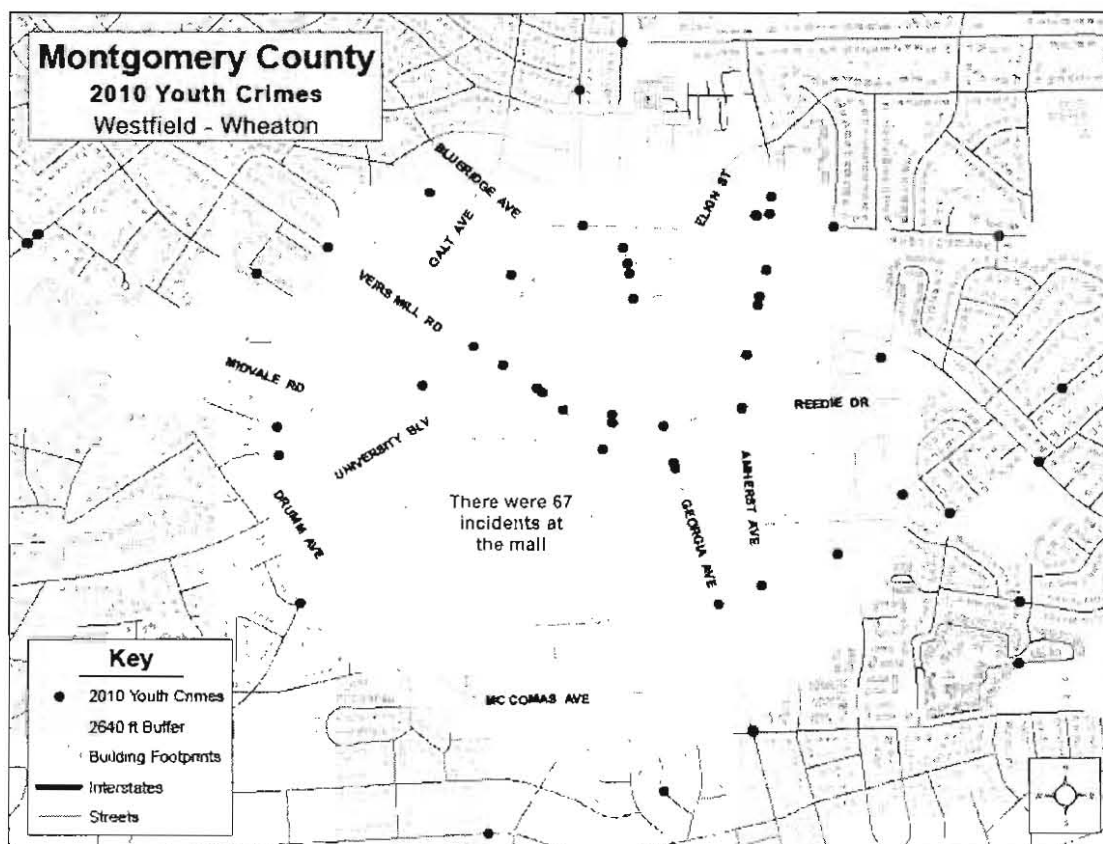
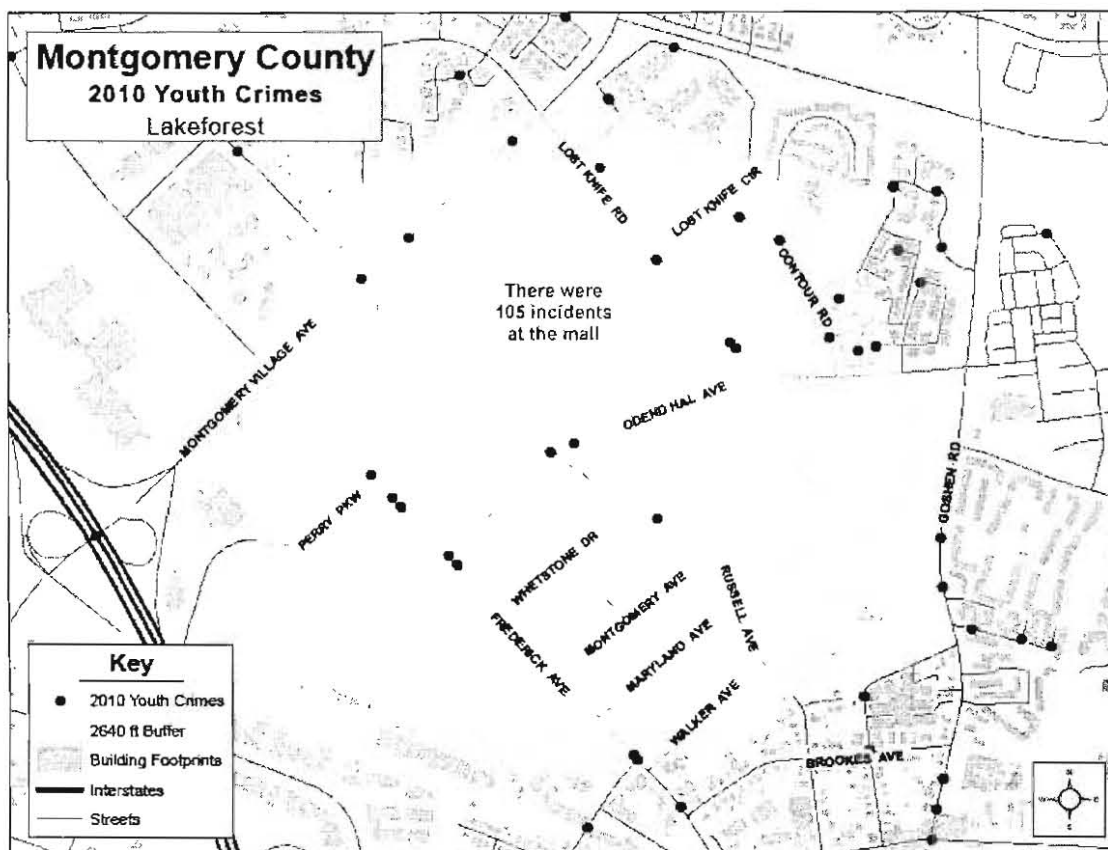
2009 Hot Spot Youth Crime Start Time	Lakeforest		Westfield-Wht		Silver Spring		Total Hot Spots by Time	
	Total	% of Day	Total	% of Day	Total	% of Day	Total	% of Day
Midnight - 1:59 AM	7	3.7%	5	4.3%	6	5.3%	18	4.3%
2:00 - 3:59 AM	3	1.6%	2	1.7%	1	0.9%	6	1.4%
4:00 - 5:59 AM	1	0.5%	1	0.9%	1	0.9%	3	0.7%
6:00 - 7:59 AM	0	0.0%	0	0.0%	1	0.9%	1	0.2%
8:00 - 9:59 AM	2	1.0%	2	1.7%	2	1.8%	6	1.4%
10:00 - 11:59 AM	8	4.2%	4	3.4%	4	3.5%	16	3.8%
12:00 - 1:59 PM	17	8.9%	10	8.6%	11	9.7%	38	9.0%
2:00 - 3:59 PM	42	22.0%	15	12.9%	14	12.4%	71	16.9%
4:00 - 5:59 PM	60	31.4%	31	26.7%	14	12.4%	105	25.0%
6:00 - 7:59 PM	34	17.8%	25	21.6%	19	16.8%	78	18.6%
8:00 - 9:59 PM	15	7.9%	14	12.1%	20	17.7%	49	11.7%
10:00 - 11:59 PM	2	1.0%	7	6.0%	20	17.7%	29	6.9%
Total Youth Crime	191		116		113		420	

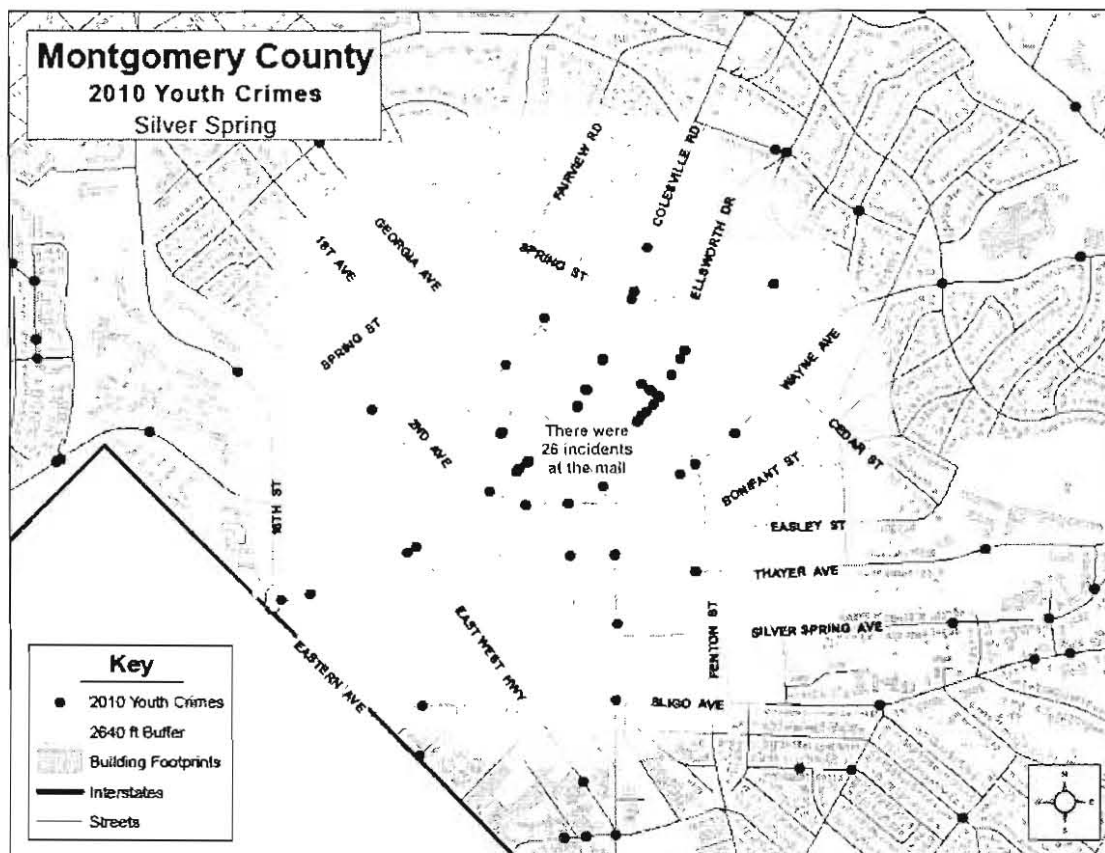


The youth crime hot spot areas for calendar year 2010 also remained consistent with previous time frames, with the exception with the White Oak area emerging as a fourth area with high activity. Using the pre-established range of a half-mile radius, incidents within the original hot spot zones had differing peak times, but the percentage of peak times were close to the next busiest times and covered more two-hour blocks. However, overall the peak percentages of youth crime in the hot spot zones remained 2:00 PM to 5:59 PM.

2010 Hot Spot Youth Crime Start Time	Lakeforest		Westfield-Wht		Silver Spring		Total Hot Spots by Time	
	Total	% of Day	Total	% of Day	Total	% of Day	Total	% of Day
Midnight - 1:59 AM	5	3.5%	4	3.5%	9	7.8%	18	4.9%
2:00 - 3:59 AM	1	0.7%	1	0.9%	4	3.5%	6	1.6%
4:00 - 5:59 AM	2	1.4%	0	0.0%	1	0.9%	3	0.8%
6:00 - 7:59 AM	0	0.0%	0	0.0%	0	0.0%	0	0.0%
8:00 - 9:59 AM	1	0.7%	1	0.9%	2	1.7%	4	1.1%
10:00 - 11:59 AM	6	4.3%	1	0.9%	5	4.3%	12	3.3%
12:00 - 1:59 PM	10	7.1%	16	14.2%	11	9.6%	37	10.0%
2:00 - 3:59 PM	35	24.8%	27	23.9%	14	12.2%	76	20.6%
4:00 - 5:59 PM	31	22.0%	22	19.5%	20	17.4%	73	19.8%
6:00 - 7:59 PM	34	24.1%	21	18.6%	17	14.8%	72	19.5%
8:00 - 9:59 PM	11	7.8%	15	13.3%	13	11.3%	39	10.6%
10:00 - 11:59 PM	5	3.5%	5	4.4%	19	16.5%	29	7.9%
Total Youth Crime	141		113		115		369	







The change of overall youth crime for each time block remained within one percentage point from 2009 to 2010. However, the percentages in the hot spot zones (in aggregate) showed a 3.7% increase for the 2:00 to 3:59 PM block, and a decrease of 5.2% in the 4:00 to 5:59 PM block.

Start Time	Total Youth Crime			Hotspot Youth Crime		
	2009 Percentage by Time	2010 Percentage by Time	Percentage Total Change 2009 - 2010	2009 Percentage by Time	2010 Percentage by Time	Percentage Total Change 2009 - 2010
Midnight - 1:59 AM	7.6%	7.3%	-0.3%	4.3%	4.9%	0.6%
2:00 - 3:59 AM	1.9%	2.4%	0.5%	1.4%	1.6%	0.2%
4:00 - 5:59 AM	0.9%	1.0%	0.1%	0.7%	0.8%	0.1%
6:00 - 7:59 AM	3.5%	2.7%	-0.8%	0.2%	0.0%	-0.2%
8:00 - 9:59 AM	5.4%	5.9%	0.5%	1.4%	1.1%	-0.3%
10:00 - 11:59 AM	9.2%	10.1%	0.9%	3.8%	3.3%	-0.5%
12:00 - 1:59 PM	10.3%	10.4%	0.1%	9.0%	10.0%	1.0%
2:00 - 3:59 PM	15.8%	15.9%	0.1%	16.9%	20.6%	3.7%
4:00 - 5:59 PM	13.9%	12.9%	-1.0%	25.0%	19.8%	-5.2%
6:00 - 7:59 PM	12.3%	11.5%	-0.8%	18.6%	19.5%	0.9%
8:00 - 9:59 PM	10.6%	10.9%	0.3%	11.7%	10.6%	-1.1%
10:00 - 11:59 PM	8.8%	9.0%	0.2%	6.9%	7.9%	1.0%

Requested: indicate, if available, the number of youth crimes which are attributable to gang activity or informal group activity (e.g., flash mobs, etc.)"

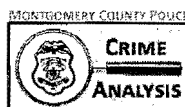
Of the 232 gang-related incidents in 2010, 166 (72%) involved a defendant or suspect who was under the age of 22. The top five gang member-involved incidents committed by "youth" were: 1) CDS, 2) Assault, 3) Robbery, 4) Larceny, and 5) Weapons offenses.

Crime	2010 total gang-related	D or S was under 22	% committed by "youth"
Assault	36	31	86%
Auto Theft	7	7	100%
Burglary	14	13	93%
CDS	38	35	92%
Disorderly	5	5	100%
Extortion	1	1	100%
Homicide	3	0	0%
Larceny	20	19	95%
Rape	2	2	100%
Robbery	29	29	100%
Sex offense	1	0	0%
Threats	5	3	60%
Trespassing	2	2	100%
Vandalism/Graffiti*	54	4	7%
Weapons	15	15	100%
Grand Total	232	166	72%

*Usually there are no specific suspects in vandalism/graffiti cases

Data Notes:

- The Department's CJIS RMS was used to extract the data, only one record per CR# was pulled and this methodology does not necessarily equate with UCR accounting rules. For example, an assault having three victims will count as "one" record in this data, not three.
- Events from earlier years reported in a later year will be counted in the year reported.
- In August 2009 CountyStat pulled their own data directly from Mary Davison and did their own analysis and maps. Parameters were verified with CountyStat staff, but they were tasked with summarizing things by FY and not calendar year, as done here. The information in this document should not be used for any direct comparison to the August 2009 information.
- For the hot spot maps, approximately 96% of the 2009 incidents plotted, and 98% of the 2010 incidents.
- Multiple incidents at the same street location will appear as a single "dot" on the hot spot zoom-in maps.



CAS # 11-508
October 6, 2011

3rd District Increased staffing

Staffing Plan

- 24 additional officers were budgeted for the 3rd District to take effect July 1, 2011
- 18 positions came from positions that were eliminated or civilianized
- 6 SRO positions were reinstated therefore 6 additional officers were authorized and began the police academy on July 1, 2011. They will be assigned in January of 2012.

Breakdown of officers:

- -2 sergeants
- -4 corporals
- -18 officers

Assignments

- -CBD Team- 2 sergeants, 10 officers
- -Ida increased staffing- 4 corporals, 8 officers (4 additional redeployed from George Sector)

Timeline:

- CBD team started on August 1, 2011
- 8 additional officers assigned to Ida Sector July/August 2011
- Remaining 6 officers to be assigned upon completion of academy (January 2012)

Staffing Issues:

- The CBD plan went forward first due to the immediate issues that were present, the Ida Sector plan had to come in two phases
- All of the 18 positions came from positions that were eliminated or civilianized; by contract volunteers had to be considered first. Most have arrived however some promotions and transfers are outstanding.
- Since July 1, 6 officers have been lost to specialized units, transfers and resignation.

Fillmore

- Opened Sept 15, 2011
- Several sold out events since opening
- Minimal impact on traffic (after opening night)
- Weekly meetings occurring between Fillmore and MCP 3rd District executive staff
- Program schedules and ticket sales information is forwarded regularly
- A meeting was held on Oct. 4 to address some alcohol related problems

CBD Team Efforts Since August 1

- | | |
|----------------------|-----|
| • Total arrests | 113 |
| – CDS charges | 30 |
| – Disorderly | 21 |
| • Criminal Citations | 40 |
| • Alcohol Citations | 64 |
| • Field Interviews | 146 |
| • Warrants served | 31 |
| • Trespass notices | 83 |
| • Parking tickets | 102 |

Crime stats CBD (George 1)

- 1.5 robberies per month in CBD since August 1, 2011; previous years averaged 6 per month
- 1 aggravated assault in CBD since August 1, 2011: previous average was 3 per 2 month period

• Preliminary numbers

Crime Stats Ida Sector

Avg. per month since Aug 1, 2011 Previous Monthly Avg.

Robbery	2.5	8.5
Aggravated Assault	3.5	3.6
Residential Burglary	9	25.8

• Preliminary numbers

Testimony of Woody Brosnan, vice chairman of Safe Silver Spring
9101 Louis Ave., Silver Spring, Md. 20910
240-481-0309

July 26, 2011

Thank you for allowing me to testify. Safe Silver Spring is a non-profit organization dedicated to keeping Silver Spring a community where people of all backgrounds and ages can prosper and enjoy themselves in safety.

Gangs threaten this safety. Most Silver Spring neighborhoods are gang-free but members of regional gangs do prey on the community, partially because of the popularity of our entertainment district and the availability of transit. In one recent incident, two gangs organized a late-night rumble in downtown Silver Spring, forcing a massive police response that left neighborhoods as far as Wheaton and Bethesda depleted of patrols. Our police need tools to try to break up such gatherings before violence erupts.

We support the idea of a teen curfew but the current proposal needs some important modifications before we can fully endorse it.

The curfew should apply to youths 16 and under, not 17 and under. This would conform the age to the curfew in Prince George's County and the District of Columbia. We also believe there should be reasonable exception to allow youths to attend movies and concerts that extend through the curfew hour.

We believe the Youth Advisory Council should be consulted on this and other possible exceptions before the curfew is put in place. There also needs to be appropriate monitoring to ensure the curfew is not being used for racial profiling.

We urge the Council and other county officials to work with their counterparts in DC and Prince George's County on a common curfew. Area teens need one set of rules to follow when they cross jurisdictions on the Metro. This will be even more important when we build the Purple Line.

Gangs are no longer isolated to home neighborhoods either. Using text messages and email they can organize flash mobs anywhere in the area. Safe Silver Spring has called for a regional anti-gang summit to plan a regional strategy for combating gangs.

A curfew alone is not the answer to ensuring a safe environment for teens.

We need positive youth development programs, continued and expanded truancy court programs, and a teen center in Silver Spring.

We need a system of public security cameras covering key intersections in the Central Business District. Chief Manger has told us that most entertainment districts have them. Had this system been in place it is possible that some of the gang members involved in the July 1-2 incident could have been charged with crimes later.

The business community also should resist the temptation to make an extra buck by enticing teenagers to be out after midnight. This last Saturday night there were 10 PG or G-rated movies at the Regal Majestic in Silver Spring that started after 11 p.m. The latest was a 12:50 a.m. showing of Captain America that did not end until after the trains and buses had stopped running.

Let me just close on an historical note.

For more than 100 years the Progressive Movement in the United States has been associated with the goal of protecting children. It was the progressives who passed laws to get children out of coal mines and textile mills. Progressives pushed for universal education so that every child would have a chance to succeed.

Protecting children, sometimes even from their own foolishness, is progressive.



10

**Testimony of
The Greater Silver Spring Chamber of Commerce
Public Hearing – Expedited Bill 25-11, Offenses – Curfew - Established
Montgomery County Council
Tuesday, July 26, 2011**

Council President Ervin, members of the Council, good afternoon. For the record, my name is Jane Redicker and I am President of the Greater Silver Spring Chamber of Commerce. I am here today to express the Chamber's support for Expedited Bill 25-11, which would establish a curfew for minors in Montgomery County.

We agree with the County Executive and the Montgomery County Police that this legislation is necessary to address the increase in juvenile violence, juvenile gang activity, and crime by minors in our County. We also agree that a curfew law will serve to protect the welfare of minors by reducing the likelihood that minors will be the victims of criminal acts during the curfew hours and reducing the likelihood that minors will become involved in criminal acts or exposed to trafficking in controlled substances during the curfew hours. And, we agree that a curfew law will serve to help protect the general public from juvenile related criminal activity.

Similar laws exist in Washington D.C. and Prince George's County, and we understand from County Police that this creates challenges for Montgomery County, particularly for those areas that abut these neighboring jurisdictions. We agree that enacting a law that closely mirrors the practice in these jurisdictions makes sense. It's worth noting that this legislation is not intended to give police a mandate to "round up" every minor out after the curfew hours. It is meant to be a tool for police to help address youth crime and gang activity.

When the U.S. Conference of Mayors studied cities in which nighttime curfews had been implemented, they found that ninety-three percent of the survey cities (257) saw nighttime curfews as a useful tool for police officers. Many felt that curfews represented a proactive way to combat youth violence. They said curfews are a good prevention tool, keeping the good kids good and keeping the at-risk kids from becoming victims or victimizers.

We do recommend that the bill be amended to mirror the provision in the District of Columbia that provides for a later hour during summer months. In addition, we recognize that many of our youth patronize businesses where events may begin before the curfew hours but end after (e.g. movie theaters, concert venues). Therefore, we also recommend that the provisions of the bill which exempt youth attending -- or on their way home from -- an official school, religious, or other recreational activity sponsored by the County or a civic organization, be amended so as to also cover these private business venues. We understand that this is consistent with the practice in Prince George's County.

Our Chamber applauds the efforts of the Montgomery County Police in keeping our County safe and secure, and helping making it an attractive place to live, work, and play. We strongly support this effort to give them just one more tool to curb youth crime and to keep our youth safe from crime during the hours covered by the curfew. We urge you to support Bill 25-11.

25

Marin, Sandra

From: jwoden@comcast.net
Sent: Tuesday, July 19, 2011 7:18 PM
To: Montgomery County Council
Subject: Bill No. 25-11: Offenses -Curfew

RECEIVED
MONTGOMERY COUNTY
JUL 20 11 8:24

Ladies and Gentlemen:

I am writing to express my 100% opposition to the subject Bill.

The bill as written would make my child a criminal for many legal activities. Examples are:

1. Traveling with my 20 year old daughter during the proposed curfew hours to sporting events, concerts, movies, etc..
2. My child traveling with his/her friends to sporting events, concerts, school dances, etc. These kids are allowed to drive legally once they are 16 years old. The MD-DMV already regulates young drivers.
3. My child could not participate in State sponsored activities such as Youth Hunting Days. 5:00am is not early enough to travel to a hunting spot, get into the field, walk to a hunting spot and then be ready to hunt at the legal time of 30 minutes before sunrise. And yes, people are allowed to hunt in Montgomery County.
4. My child could not go fishing in the early morning hours much the same as hunting as I state under item #3.
5. My child could not go camping with a group of his friends during the proposed curfew hours.
6. Why must my child carry an "authorization" (written, I presume) for my child to travel with a aunt, uncle or adult friend of mine? My child would be restricted from traveling with anyone out of high school and less than 21 years of age (see #1 above).

My child is not even a resident of Montgomery County but my child's freedoms for the activities he/she enjoys with his/her friends who live in Montgomery County would be eliminated under the Bill No. 25-11.

I understand you want to curb youth crime and gang activity. Kids are in gangs because they don't get love at home now. If you don't believe me, ask your Police Chief. If those youth who participate in criminal activities and gangs now are not supervised by their parents now, do you think parents will supervise their children after the passage of this Bill? I would bet big money they would not! Why are you trying to mandate what current, responsible parents do now! This proposed Bill is a prime example of government interfering in a person's rights; parents and children. I don't need Montgomery County to be a nanny to my children or the children of my friends who live in Montgomery County.

What is the percentage of irresponsible children and parents as opposed to the percentage of good and responsible parents in Montgomery County? It appears to me that the majority of law abiding citizens would be affected by the passage of bill. I would bet the percentage of good and responsible parents far exceeds the percentage of irresponsible children and parents. The passage of this bill is like "throwing out the baby with the bath water" in my eyes. It will result in good kids and adults being charged as criminals for now legal and wholesome activities young and old citizens now enjoy.

If you want to curb gang activities, stop supporting illegal immigration. Stop acting as the sanctuary County you are now. I guess you know you are only second to California in supporting and harboring illegal residents in the United States. Why do you think the majority of residents who were born and raised in Montgomery County no longer live there. I fall in that category. It is because of

your extreme liberal positions and the need to regulate nearly every facet of your citizens lives.

The way I see it, this bill is an infringement on your citizens rights of "Life, Liberty, and the pursuit of Happiness".

Sincerely,
Jerome Oden
jwoden@comcast.net

Action Committee for Transit

www.actfortransit.org

P.O. Box 7074, Silver Spring, MD 20907

July 28, 2011

Ms. Valerie Ervin
President, Montgomery County Council
100 Maryland Ave.
Rockville, MD 20850

Subject: Teenage Curfew

Dear Ms. Ervin:

The Action Committee for Transit urges the Council to reject the proposed teenage curfew and to actively pursue other means of ensuring that downtown Silver Spring is a safe and secure place that our entire community can enjoy. Part of the solution is better community policing, using officers on foot and bicycle at night as well as in the daytime.

We were quite disturbed to read the police department's explanation of the curfew in the Wednesday *Washington Post*. It is apparent that the curfew would be enforced against teenagers on foot or in public transit, but not in cars.

Not only is this discriminatory, but teenagers will drive to avoid the curfew. Putting rowdy teenagers on the roads late at night will certainly not make the county safer.

For that matter, teenagers in cars already cause far more deaths and injuries than teenagers on foot or in transit vehicles. We are so accustomed to the carnage caused by overdependence on the automobile that we frequently overlook it. A much greater gain in public safety would come from a curfew on teenage drivers than from the current curfew proposal. We are not recommending additional limits on teenage driving here, but we do ask that the police collect data on deaths and injuries from vehicular accidents involving teen drivers so that effective action can be taken in the future.

The traditional urban form of downtown Silver Spring is not an experiment that is at risk. Rather, it is part of the solution for the limitations and inherent risks of suburban design. The renaissance of our downtowns – not just Silver Spring, but also Bethesda, Rockville and soon White Flint and Wheaton – will fully succeed only when they are welcoming environments for everyone in the county. This requires strenuous efforts to ensure safety, but not a safety achieved by excluding one segment of the population.

Sincerely,
Ben Ross
Vice President

28



THE GREATER
BETHESDA-CHEVY CHASE
CHAMBER OF COMMERCE

7910 Woodmont Avenue, Suite 1204
Bethesda, MD 20814
T: (301) 652-4900
F: (301) 657-1973
staff@bccchamber.org
www.bccchamber.org

VIA EMAIL

July 26, 2011

The Honorable Valerie Ervin, President
and Members of the Montgomery County Council
100 Maryland Avenue, 6th Floor
Rockville, Maryland 20850

Re: Expedited Bill 25-11, Offenses-Curfew-Established

Dear Ms. Ervin and Members of the County Council:

On behalf of The Greater Bethesda-Chevy Chase Chamber of Commerce (B-CC Chamber), we are writing in regards to Expedited Bill 25-11, which proposes the establishment of a new curfew for minors and related recommendations.

As we understand, the impetus of this legislation is due to the increased number of incidents caused by youth from outside our County who are congregating in Silver Spring and causing an increased need for security. We also understand that this issue is critical to the safety and continued success of area businesses in the Silver Spring area, as well as the safety for citizens and visitors to that area.

Our concern is that this proposal seems to be a shotgun approach without having conducted the needed research which would determine if this is the best solution to the issue. We recommend that between July 26th and the Public Safety Committee's worksession on September 15th, expedited research be conducted as to the impact that curfews have had in other similar communities, including measurements of success and/or failure, and other solutions that have successfully been implemented. Like all other legislation, we urge the County to complete the research as to the fiscal impact of the curfew or any other option, in advance of the September 15th worksession.

Given the current situation and the needs of the business community and the community as a whole, inaction is not an option. We recommend that instead of enforcing a blanket curfew on all youth throughout the County, the County should first know that all methods of dealing with this particular problem have been explored and a curfew is the best tool to achieve the goal. If that is the case, we strongly urge that a sunset provision of no more than one year be included so that this issue can be reviewed again as to its impact and need.

Thank you for your consideration of our recommendations.

Sincerely,

Leslie Ford Weber, Chair
(Suburban Hospital)

Heather Dhopolsky, VP, Economic Development & Government Affairs
(Linowes and Blocher)

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Corporate: Barwood Transportation • Bond Beebe Accountants & Advisors • Councilor, Buchanan & Mitchell P.C. • Dembo, Jones, Healy, Pennington & Marshall, P.C. • Doubletree by Hilton Bethesda • Elite Personnel • The Gazette • Grossberg Company LLP • Holland & Knight LLP • Hyatt Regency Bethesda • Linowes and Blocher • Merrill Lynch – Melanie Folstad • PNC Bank • White Flint Mall



UPCOUNTY CITIZENS ADVISORY BOARD

October 21, 2011

The Honorable Valerie Ervin, President
Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

Dear Ms. Ervin:

I am writing on behalf of the Upcounty Citizen's Advisory Board (UCAB) regarding the County Executive Leggett's proposed Bill 25-11, which would establish a youth curfew in Montgomery County. Following a lengthy discussion spanning three meetings, the UCAB has voted to support the bill (by a vote of six to five) as written with current amendments.

The debate on both sides was open, knowledgeable, supported by research and facts, and sometimes emotional. Clearly, the bill contains provisions which will help deter juveniles from both committing crimes and being victims of crimes during the proposed curfew hours. The primary benefits of the bill include:

- It provides law enforcement officials with an additional tool to prevent crimes involving juveniles less than 18 years of age.
- The bill will detract juveniles from engaging in gang activity.
- By restricting hours that young people will be out in public, it will prevent minors from becoming victims of crimes.
- Applying a curfew reduces the incidence of minors from neighboring jurisdictions crossing into Montgomery County to avoid curfews where they live.
- Parental authority will be enhanced since parents will have justification for setting household limits on when a teen or pre-teen has to be home.
- A curfew is an attractive crime deterrent because there will be a negligible budgetary cost effect.
- Because of the high degree of training and professional experience by our Montgomery County Police Officers, the UCAB is confident that profiling of certain youth will not be an issue.

The concerns of the individuals opposed to the bill include the following:

- There is little evidence of a widespread problem.
- The proposed bill, if passed as written, may likely be challenged in court.

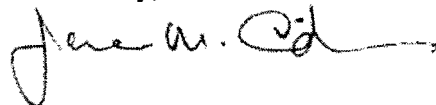
- There is no explicit mention of parental notification in the bill.
- There are too many exceptions in the bill, both in terms of acceptable activities wherein the curfew would not be invoked and actual jurisdictions where the bill would not apply at all.

During the discussion, various individuals submitted additional items for consideration. These included:

- A current assessment of juvenile crime/and crimes involving juveniles as victims should be provided with actual data along with projections/targets of crime reduction after implementation of the curfew.
- The county may want to consider a sunset date for the curfew some two or three years out from the date of initial implementation.
- A stronger curfew law containing fewer exceptions should be considered.
- Funding should be approved to conduct a multi-language awareness campaign.
- Clarify the impact on non-resident juveniles.
- Continue to pursue initiatives like the grant to acquire surveillance cameras for hot spots.
- Whenever possible pursue opportunities for positive youth development activities and include those activities within the curfew exemptions to encourage participation by juveniles.
- A process should be developed to expeditiously adjudicate complaints lodged under a curfew law.

As an advisory board, we appreciate the opportunity to provide input on matters under consideration before the County Council. Thank you.

Sincerely,



Juan Cardenas
Chair

Copy to: Mr. Leggett, County Executive



Serving the Public Interest Since 1925

Monday, November 21, 2011

Dear Council President Ervin and Councilmembers:

At its November general meeting, the MCCF members voted to **support Council Bill 35-11**, "Offenses-Loitering or Prowling-Established" as a means of addressing concerns about street crime problems occurring in the County. It provides an approach that applies uniformly to all segments of the population at all times of the day and has a reasonable legal basis for enforcement.

At this same November meeting, the MCCF membership voted to **oppose Bill 25-11**, "Offenses-Curfew-Established" for the following reasons:

1. According to the Sept. 13th letter from the County Executive, the proposed curfew law's penalties have been reduced to a Class B civil fine which eliminated any authority for police to arrest violators.
2. The ability to require community service and parent training for curfew violators and their families have also been removed which stripes the rehabilitative objectives from the legislation.
3. The longstanding body of empirical research shows that curfews alone have little effect on reducing crime, and supporting measures employed by other jurisdictions such as curfew centers were not planned in conjunction with the adoption of the County's curfew law.
4. Concerns about the inability of the curfew to restrict potential criminal activities committed by individuals 18 years or older during non-curfew hours.
5. The ability of youths who simply declare themselves as being 18 years old to be exempted from further police questioning if there is no further cause for stopping them, and
6. The legal uncertainty to which officers would be subject in determining a youth's eligibility for the many curfew exemptions while questioning him or her on the street.

Given the totality of these concerns, the curfew law appears to be an ineffective solution to the public safety concerns that generated its proposal.

However, laws such as this do have the potential for misuse and abuse by law enforcement officers and could threaten basic citizens' rights if applied in a discriminatory, harsh or oppressive manner. We would strongly recommend that the County Council take a proactive

approach in this regard by establishing an annual reporting requirement that would document how these laws, if either or both are adopted, are being applied by the County's law enforcement personnel. Such a report should include the following data items:

- number of incidents involving curfew violation/loitering/prowling charges
- a frequency count of arrests made per incident for these charges
- day of week/time of day frequency counts for incidents involving these charges
- number of arrestees by appropriate age groups, e.g., <18, 18 to 25, 26 to 65, and >65 years of age
- number of arrestees by race/ethnicity
- number of incidents by location type, i.e., commercial, residential, industrial, public facilities/parks, or other places
- incidents displayed on a County map in order to determine their geographic distribution

This would enable the County Council and Executive to assess the effect and application of these laws for future decisions regarding their continuation or possible modification.

If the application of these laws is primarily intended for periodic crackdowns by the police in particular areas of the County, the cautions raised by the Center for Problem-Oriented Policing for such actions should be heeded.

Poorly planned, ill-conceived, and improperly managed crackdowns, intended merely as a show of police force and resolve, can create more problems than they solve. But carefully planned crackdowns, well supported by prior problem analysis, implemented with other responses to ensure longer-term gains, and conducted in a way that maintains public support and safeguards civil rights, can be an important and effective part of police strategies regarding a range of crime and disorder problems.

- excerpted from *The Benefits and Consequences of Police Crackdowns*,
www.popcenter.org/responses/police_crackdowns/1

We would hope that these measures would achieve the objective of promoting public safety while also protecting citizen's rights to freedom of movement and to meet and congregate without interference from government.

Thank you for this opportunity to offer our opinion on this matter.

Sincerely,

Peggy Dennis, President
Montgomery County Civic Federation

Cc: County Executive Isiah Leggett
Police Chief Thomas Manger